



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Niki Marina Eloshway)
)
Group Art Unit: 3727) A PACKAGE INCLUDING A
) CONTAINER WITH A WIDE-MOUTH
In re Application of:) SPOUT AND ENCLOSURE SEALING
GARY L. MENGEU) THE SPOUT
)
Application Serial No. 09/930,079) Attorney Docket No. 035373-00104
)
Filed August 15, 2001)

RESPONSE TO OFFICE ACTION

January 7, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This is a response to the Office Action mailed on November 18, 2003, in which prosecution of the application, which was on Appeal, was reopened and new grounds of rejection were set forth.

Claims 1-13 are pending.

Claims 1-3, 12 and 13 have been rejected.

Claims 4-11 have been objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form, including all the limitations of the base claims and any intervening claims.

Rejections Under 35 USC § 103

Claims 1-3, 12 and 13 were rejected under 35 USC § 103(a) as being unpatentable over Perne et al. (U.S. 4,699,285) in view of Bergholtz (U.S. 6,260,723). Perne et al. was cited as disclosing "the claimed invention except for the rim of the [sic] being wedged in the gap. Bergholtz teaches that it is known to wedge a rim in a closure gap." This rejection is respectfully traversed.

Claim 1 calls for, in pertinent part, "a package comprising: a container ...; a closure ...; and sealing elements including an annular sealing flange extending

downwardly and inwardly from the end wall of the enclosure and having an outer sealing surface which engages an inner sealing surface on the flared portion of the container, and an annular upper portion of the inner surface of the skirt being inclined downwardly and outwardly relative to the outer surface of the annular sealing flange to form with the annular sealing flange an upwardly converging annular gap into which the rim of the container is wedged as the container engaging members on the closure and the closure engaging members on the container engage.” As conceded in the Office Action, Perne et al. does not disclose a package in which the rim of a container is wedged into a gap formed in the closure. Furthermore, Perne et al. does not even have an annular sealing member that extends downward and inward, instead, the annular sealing flange 50 of Perne et al. extends axially.

Bergholtz does not add anything to Perne et al. that would suggest the combination of Claim 1. Bergholtz is directed to a package that includes a snap lid, that is, a package in which the lid is secured to the container by a snap connection. This snap connection corresponds to the container and closure engaging means, respectively on the closure and container as called for in Claim 1, which in the exemplary embodiment of the invention, are threads. Thus, Bergholtz does not even have a seal in addition to container/closure engaging means as called for by Claim 1. Furthermore, Bergholtz has no “annular upper portion of the inner surface of the skirt being inclined **downwardly and outwardly relative to the outer surface of the annular sealing flange** to form with the annular sealing flange an **upwardly converging annular gap** into which the rim of the container is wedged.” Clearly, the inner surface of the skirt which is engaged by the edge 11 of the head 3 of the container extends **downwardly and inwardly**, not **downwardly and outwardly** as claimed. Also, this downward extending portion of the inner surface of the skirt in Bergholtz does not form with the annular flange 23 an upwardly converging annular gap. As a matter of fact, the gap actually diverges to effectuate the snap connection. In fact it is essential to the operation of Bergholtz that this gap diverge so that the rim can be snapped into place.

Accordingly, Perne et al. does not disclose an upper portion of the inner surface of the closure skirt which extends downwardly and **outwardly** to form an upwardly **converging** gap with the annular flange, and Bergholtz, which discloses

a snap connection in which a downwardly and **inwardly** extending portion of the inner surface of the skirt **diverges** from the annular flange to form a snap connection does not provide or suggest the missing teaching. Thus, Perne et al. and Bergholtz, whether taken singly or in combination do not teach or suggest the invention of Claim 1.

Claims 2 and 3 both depend from Claim 1 and are therefore patentable over the references for the same reasons.

Claim 12 is an independent claim to a package, which calls for, in pertinent part, a container with an upwardly and inwardly extending spout terminating in a rim, a closure having an end wall and a skirt extending outward and downward with container engaging members adjacent a lower end of an inner surface of the skirt which engages closure-engaging members on the container, and sealing elements including first sealing elements forming a seal between the container and the closure adjacent the container opening, and a second seal comprising an annular sealing member on one of the lower portion of the inner surface of the skirt above container engaging members and on the main body of the container above the closure engaging members but below the spout which seals against the other. Thus, Claim 12 calls for a seal at the top of the container, which in the preferred embodiment of the invention is formed by the annular flange 37, the bead 45 and the flared portion 14 of the container. Claim 12, in addition, calls for a second seal between the lower portion of the skirt and the main body of the container below the spout but above the container engaging members. In the preferred embodiment of the invention, this second seal 55 is formed by the bead 57 on the inner surface of the skirt 23 above the container engaging members (threads 31) that engages the container above the closure engaging members (threads 9) but below the spout 11. No comparable second seal is disclosed or even suggested in either Perne et al. or Bergholtz. In fact, the rejection makes no attempt to identify any elements in either of these references which could in any way be considered to suggest the claimed second seal. Accordingly, the rejection has totally failed to make a *prima facie* of obviousness with regard to Claim 12, which is therefore patentable over the references.

Claim 13 depends from Claim 12 and is therefore patentable for the same reasons. Furthermore, it recites that the annular sealing member is on the lower

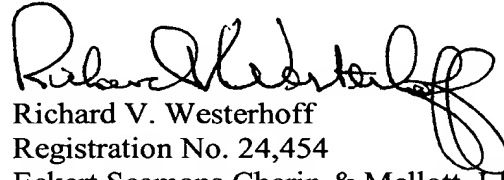
portion of the inner surface of the skirt, which is the preferred embodiment of the second seal.

Objections to Allowable Subject Matter

Claims 4 through 11 were objected to as being dependant on rejected base claims. However, as independent Claims 1 and 12 are patentable, it is not necessary to rewrite the objected to claims.

In view of all of the above, reconsideration and allowance of the application as now presented is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard V. Westerhoff", with a large, stylized flourish at the end.

Richard V. Westerhoff
Registration No. 24,454
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Attorney for Applicant

(412)566-6090